



PUBLIC NOTICE

Federal Communications Commission
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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER FILED BY THE COUNTY OF LANCASTER, PENNSYLVANIA TO OPERATE A COUNTY-WIDE TRUNKED PUBLIC SAFETY COMMUNICATIONS SYSTEM USING FREQUENCIES IN THE TELEVISION CHANNEL 15 (476-482 MHZ) BAND

File No. 0003458819, 0003458876, and 0003458877

Comment Date: September 4, 2009

Reply Comment Date: September 14, 2009

The Public Safety and Homeland Security Bureau seeks comment on the applications and waiver request, as amended, initially filed on June 2, 2008, by the County of Lancaster, Pennsylvania (“Lancaster” or “the County”).¹ Lancaster seeks waiver relief pursuant to Section 337(c) of the Communications Act of 1934 (the Act), as amended, 47 U.S.C. § 337(c), to use, for public safety communications purposes, a land mobile public safety communications system sharing spectrum with television (TV) Channel 15 (476-482 MHz band).² In the alternative, Lancaster requests waiver relief pursuant to Section 1.925 of the Commission’s rules, 47 C.F.R. § 1.925.

Lancaster states that “[a]lthough eastern Lancaster County is within 80 km of Philadelphia, the majority of the county is more than 80 km from any city authorized by rule to utilize television (“T-Band”) channels.”³ Lancaster notes that “channel 15 is already allocated for land mobile use in the New York City area,” and it seeks a waiver of Section 90.305(a).⁴ This rule provides that base station transmitter sites must be located within eighty kilometers (fifty miles) from the geographic center of an urbanized area listed in Section 90.303.⁵

The County states that “channels 19 and 20 are already heavily used in the Philadelphia area making it impossible to acquire a sufficient number of channels even if both channels are considered.”⁶

¹ See File Nos. 0003458819, 0003458876, and 0003458877 (filed June 2, 2008, amended July 8, 2008, September 4, 2008) and attached “Application and Request for Waiver” (Waiver Request).

² See Waiver Request at 3 and 10. See also Frequency Information pages on FCC 601 Main Form.

³ Waiver Request at 2.

⁴ *Id.* at 3-4; 47 C.F.R. § 90.305(a).

⁵ See 47 C.F.R. §§ 90.303, 90.305(a).

⁶ Waiver Request at 2.

Lancaster also notes that “[a]djacent counties of York and Dauphin are operating on channel 19 by waiver, further limiting channel availability.”⁷

Lancaster proposes to operate a public safety communications system sharing UHF spectrum with TV Channel 15 band.⁸ Lancaster states that “although Lancaster holds some of the UHF licenses in the 450-470 MHz range, there are not enough channels to allow implementation of the new system and they will not support licensing in the centralized trunked (FB8) mode.”⁹ The County states that “[w]ithout consolidation on one band, first responders would be required to carry two or more radios, compromising the goal of county-wide interoperability.”¹⁰ The County attaches a UHF frequency search by Fox Ridge Communications, which, it claims, demonstrates that there are “insufficient frequencies available to accommodate the County’s needs.”¹¹ More specifically, “only two channels were found in the 450-470 MHz band, and those channels were only marginally acceptable. The new system will require a total of 100 channel pairs to support the County’s needs.”¹² Therefore, Lancaster claims that its “only alternative” is to “utilize UHF spectrum shared with television stations.”¹³

Lancaster also claims that this study demonstrates that “in no case does an interference contour overlap a service contour of any station, thus fully protecting all incumbent television stations.”¹⁴ Additionally, “potentially affected LPTV/translator stations will receive more than the required protection.”¹⁵ Lancaster concludes that “no television station will be affected by the use of channel 15 by Lancaster County for land mobile operations.”¹⁶

Likewise, Lancaster asserts that “the mobile interference contours are within the interference contours of the repeaters.”¹⁷ Thus, “having shown that the repeaters protect all incumbent televisions, the mobile stations must necessarily provide as much or more protection.”¹⁸

Lancaster sought concurrence from two affected television stations. On May 6, 2009, the County amended its application by attaching a copy of a concurrence letter from one affected TV station (Station WFDC-DT).¹⁹ On May 29, 2009, the County again amended its application noting that Lancaster “has also contacted the licensee of adjacent channel television station WTSD-CA, Channel 14, Wilmington,

⁷ *Id.*

⁸ *See id.* at 3.

⁹ *Id.* at 1.

¹⁰ *Id.*

¹¹ *Id.* at 1-2.

¹² *Id.* at 2.

¹³ *Id.* at 2.

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 7.

¹⁷ *Id.* at 8.

¹⁸ *Id.*

¹⁹ Letter of Christopher G. Wood, Vice President and Senior Legal Counsel, Telefutura D.C. LLC, to Michael W. Weaver, Director, Lancaster County-Wide Communications, on April 27, 2009.

DE,” requesting concurrence.²⁰ Lancaster states that counsel for WTSD-CA has stated that, “there would be no further review of the waiver or the letter of concurrence until the County established an escrow account in the amount of \$7,500.00 to cover the station’s engineering and legal costs.”²¹ Lancaster states that it is “unwilling and unable to provide the escrow account requested by WTSD-CA.”²² Lancaster also reiterates that “the engineering analysis provided by the County to WTSD-CA and the Commission is straightforward, fully documented, and consistent with standard radio engineering methodology,” and that “the contour maps included in the analysis clearly demonstrate the absence of any potential for interference from the County’s proposed operation to adjacent-channel WTSD-CA.”²³

As a part of the analysis under Section 337(c) of the Act, as well as the Commission’s waiver criteria, we also seek comment on whether the 700 MHz public safety band would provide a viable alternative, particularly since the digital television transition date has passed, and in light of the Commission’s actions facilitating a nationwide, interoperable public safety network.²⁴ In particular, we request comment on the effect on television broadcasters of decreasing the potentially available spectrum for their use in Lancaster County and in the areas beyond Lancaster where they would be unable to use TC Channel 15 for television broadcast service as a result of the County’s proposed use of frequencies in the TV Channel 15 band for public safety. Would Lancaster County be able to complete its proposed upgrade and improve interoperability by using frequencies in the 700 MHz public safety band, rather than using the television T band frequencies?

Pursuant to Sections 1.415 and 1.419 of the Commission’s rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this *Public Notice*. All comments and reply comments should reference the subject Waiver Request and the DA number indicated on this *Public Notice*. Comments may be filed: (1) electronically by accessing the applicant’s file number(s) in the Commission’s Universal Service Licensing System (ULS),²⁵ or (2) by filing paper copies.

- Electronic Filers: Pleadings may be submitted electronically as follows:

From the ULS website at <http://wireless.fcc.gov/uls/>, begin the process of submitting a pleading by clicking on the “ULS Pleadings” link in the menu on the lower left side of the ULS web page. The link will take you to the “*Pleading Information*” screen for “Non-docketed Pleadings” where you select “Reply” in the drop-down window for the type of pleading and then enter the pleadings filer information.

²⁰ Letter of Robert M. Gurss, Counsel for Lancaster County, to Zenji Nakazawa, Deputy [sic] Division Chief, Public Safety and Homeland Security Bureau, FCC, on May 27, 2009.

²¹ *Id.* at 1.

²² *Id.* at 2.

²³ *Id.*

²⁴ See Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229; Development of Operational, Technical and Spectrum Requirements for Meeting Federal State and Local Public Safety Communications Requirements through the Year 2010, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007). See also Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229, *Third Further Notice of Proposed Rulemaking*, 23 FCC Rcd 14301 (2008); *Second Further Notice of Proposed Rulemaking*, 22 FCC Rcd 8047 (2008).

²⁵ See “Wireless Telecommunications Bureau Enhances the Commission’s Universal Licensing System to Implement Electronic Filing for Pleadings,” *Public Notice*, 21 FCC Rcd 424 (WTB 2006). See http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-06-125A1.pdf.

Completion of the contact information is optional. Upon completion of this screen, please note the instructions for the filing: “*Pleadings must be dated and must include a signature, in this instance an electronic signature, and the address and phone number of the signing party.*”²⁶ Click on “CONTINUE.”

The second step is to complete the *File Numbers/Call Signs* screen. Click if the pleading pertains to a File Number or Call Sign and enter the File Number or Call Sign. Please note that you must enter a File Number or Call Sign to continue. If the pleading pertains to multiple applications or licenses, you must enter each File Number or Call Sign as appropriate. After clicking the “SUBMIT” button, the screen will update to show all the File Numbers/Call Signs associated with the pleading. At this time, you may delete selected File Numbers/Call Signs from the page before continuing.

The third step is to complete the *Attach File* screen to attach the pleading document. Use the drop down box to select Pleading or Confidential Pleading. The “BROWSE” button opens a file upload window where you will locate and select your pleading file. The Description field allows you to enter a brief description for the pleading. Click the “ADD ATTACHMENT” button to upload your pleading. You may submit up to thirty files for each pleading but each file must be smaller than 10 MB in size. You also have the opportunity to delete any selected file from the pleading.

Finally, to complete your electronic pleading submission, click on the “SUBMIT PLEADING” button and the *Confirmation* screen will be displayed. The *Confirmation* screen will display your Confirmation Number as well as your entered pleadings information. You may print this page for your records by selecting the Print Page link at the top of the page and have the option of submitting another pleading or returning to the ULS website by selecting a link at the bottom of the page.

The ULS Application and License Search results will display pleadings under the ADMIN tab when a comment or reply comment has been filed. Users can view the pleading by clicking on the link for the specific comment or reply comment in the Description field. The general public will not be able to view confidential pleadings.

For additional information or assistance on how to file a comment or reply comment or other relevant pleading, you may visit the Web at <http://esupport.fcc.gov>. You may also call the FCC ULS Customer Support Center at (877) 480-3201 and select option 2, or (888) 225-5322 and select Option 2, or (717) 338-2888. For TTY, please call (717) 338-2824. Assistance from the FCC ULS Customer Support Center is available between the hours of 8 a.m. to 6:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls to FCC ULS Customer Support Center are recorded.

- Paper Filers: Parties who choose to file by paper must submit an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand

²⁶ See 47 C.F.R. Part 1.

deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

The application(s), waiver request, and comments and reply comments can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the Waiver Request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, DC 20554. Copies may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, DC 20554. Customers may contact BCPI through its web site, <http://www.bcpweb.com>, by email at fcc@bcpweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Lisa Williams, RIC, (202) 418-1352.

Because of the policy implications and potential impact of this proceeding on persons not party to the Application, it is in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a) and 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a) and 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed, but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Mr. David Siehl of the Policy Division, Public Safety and Homeland Security Bureau at (202) 418-1313 (voice), (202) 418-7233 (tty), or via e-mail to David.Siehl@fcc.gov.

By the Chief, Policy Division, Public Safety and Homeland Security Bureau.

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